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Attorneys for Defendant

Visalus, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

LORI WAKEFIELD, on behalf of herself
and others similarly situated,

Plaintiff,

v.

VISALUS, INC.,

Defendant.

CV No. 3:15-cv-01857

DEFENDANT'S RESPONSE TO AMENDED
FEE PETITION

Plaintiff's amended fee petition (ECF 471) repeats verbatim large swathes of the original fee petition (ECF 388). ViSalus's objections (ECF 412) to the original petition similarly remain unchanged. In particular, while ViSalus appreciates that Plaintiff's counsel have lowered their

request to 25% of the claimed amount, even at a response rate of 10% that works out to slightly over \$23 million for a three-day jury trial, one principal brief on appeal, and assorted post-trial motion practice. Not only is that still an outlandishly large amount, it is nearly six times Plaintiff's claimed lodestar figure, which itself admittedly uses hourly rates that are far beyond what is typical for the area. Additionally, ViSalus questions the assertion that Plaintiff's counsel have performed over half a million dollars of additional work since the parties' originally briefing on attorney's fees. Plaintiff's counsel submitted a principal answering brief and a citation to supplemental authorities in the Ninth Circuit and appeared at an oral argument lasting less than an hour. Plaintiff subsequently waived her right to file a formal response to ViSalus's petition for a writ of certiorari in the U.S. Supreme Court.

CONCLUSION

The amended fee petition, though a step in the right direction, still seeks an award that is wildly disproportionate to the amount and value of the work performed, regardless of how "excellent" Plaintiff believes it to have been. For those reasons, ViSalus reiterates its objections.

DATED this 2nd day of August, 2024.

SACRO & WALKER LLP

s/ Lisa M. Burnett

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